



***de maximis, inc.***

186 Center Street  
Suite 290  
Clinton, NJ 08809  
(908) 735-9315  
(908) 735-2132 FAX

May 9, 2014

Jennifer LaPoma  
Lower Passaic River Restoration Project  
U.S. Environmental Protection Agency, Region II  
290 Broadway  
New York, New York 10007-1866

***Via Electronic Mail***

**Re: Notice of Force Majeure – Jackson Street Bridge Mechanical Failure  
River Mile 10.9 Removal Action  
Administrative Settlement Agreement and Order on Consent for Removal Action, CERCLA  
Docket No. 02-2012-2015**

Dear Ms. LaPoma:

This letter is submitted on behalf of the Lower Passaic River Study Area Cooperating Parties Group (CPG) to provide notice in accordance with Section XVII of the above-referenced AOC that a Force Majeure event beyond the control of the CPG has occurred and currently persists with no definitive date of resolution. Specifically, the Jackson Street Bridge (Bridge) operated by Essex County has not been operational and failed to open upon required notice due to mechanical failure since April 29, 2014. The CPG's contractor, Great Lakes Dredge and Dock (GLDD), was notified of this condition by Essex County on April 29; the CPG informed Region 2 and its contractors upon learning of the Bridge failure.

GLDD has made multiple attempts to contact Essex County to request information related to the status of repairs, status of parts delivery and a schedule of repairs. Essex County has stated that when parts are received, the repair will take at least two days to complete (one day to install the parts and one day to test the Bridge). GLDD has also requested permission to manually open the Bridge using land based tow trucks, as was done with the Bridge Street Bridge in cooperation with Hudson County during the time it experienced mechanical failure. Essex County responded "no to a manual bridge opening due to concern that the bridge could not be closed after it was opened."

On May 6, after not receiving any definitive updates from Essex County, GLDD filed an "Urgent Marine Notice Complaint Form" with Mr. Gary Kassof, Commander (dpcb) of the First Coast Guard District (attached). As noted in the complaint, the Essex County Engineer stated "The Jackson Street Bridge still out of service. Scheduled openings must be stop until further notice."

The CPG and its contractors began to place the habitat sand layer of the cap on Thursday, May 8. It is anticipated that by Saturday, May 10, sand supply presently located at the Removal Area will be exhausted and all work will stop until bridges can be opened and additional barges of sand can be moved up river. If the Bridge does not become operational by May 10, the CPG will be forced to cease work and delay completion of the RM 10.9 Removal Action. Additionally, the CPG has been placed on notice that one of the tug boats is currently trapped at RM 10.9 due to the failure of the Bridge to open and permit it to move down river.

Allentown, PA • Clinton, NJ • Greensboro, GA • Knoxville, TN • San Diego, CA  
Sarasota, FL • Houston, TX • Windsor, CT • Waltham, MA



**J. LaPoma**  
**RM 10.9 Removal Action – Force Majeure**  
**May 9, 2014**  
**Page 2 of 2**

CPG has kept EPA informed of these delays related to the Bridge mechanical problems, including during the RM 10.9 Weekly Status teleconferences held on April 30 and May 7.

The RM 10.9 Removal Action can continue if Essex County's obligation to operate its movable bridges upon proper notice is enforced by Region 2 and the USCG. If Region 2 and the USCG can favorably resolve this issue, then the RM 10.9 Removal Action will continue by allowing sand supplies and equipment to move up river early next week, and complete the deployment of the sand habitat layer prior to mid-May 2014.

The CPG does not believe that this Force Majeure event will cause or contribute to an endangerment to public health, welfare or the environment.

The CPG will continue to provide written updates as new information becomes available.

Please contact William Hyatt, Willard Potter, Robert Law or me if you require further information.

Very truly yours,

**de maximis, inc.**

  
John A. Rolfe

RM 10.9 Removal Action Project Coordinator

**cc:** Ray Basso, EPA  
Jennifer LaPoma, EPA  
Sarah Flannigan, EPA  
Mike Hoppe, EPA  
Robert Law, *de maximis*  
Willard Potter, *de maximis*  
William Hyatt, CPG Coordinating Counsel  
CPG Members